Datatreasury Corporation v. Wells Fargo & Company et al Doc. 665

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORTION *Plaintiff/Counter-Defendant*	§ § §	
vs.	§ §	No. 2:06cv72 (DF) Jury Trial Demanded
WELLS FARGO & COMPANY; WELLS FARGO BANK, NATIONAL ASSOCIATION *Defendants/Counter-Plaintiff*	§ § § §	

DATATREASURY'S ANSWER TO KEYCORP AND KEYBANK NATIONAL ASSOCIATION'S FIRST AMENDED COUNTERCLAIMS

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to KeyCorp and KeyBank National Association's (collectively "Key") First Amended Counterclaims to Plaintiff's First Amended Complaint for Patent Infringement and in support thereof, states as follows:

1. Plaintiff/Counter-Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 132 of Key's Counterclaim.

2. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 133 of Key's Counterclaim.

3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 134 of Key's Counterclaim.

4. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 135 of Key's Counterclaim.

5. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 136 of Key's Counterclaim.

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FIRST COUNTERCLAIM

(Declaratory Judgment of NonInfringement of U. S. Patent No, 5,265,007)

6. In paragraph 137 of Defendants' First Amended Counterclaim, Key has incorporated Paragraphs 94 through 131 of Defendant's First Amended Answer which are affirmative defenses by Defendant Key for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 94 through 131 as denied.

7. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 138 of the first counterclaim of Key's First Amended Counterclaims.

SECOND COUNTERCLAIM

(Declaratory Judgment of Invalidity of U. S. Patent No. 5,265,007)

8. In paragraph 137 of Defendants' Counterclaim, Key has incorporated Paragraphs 94 through 131 of Defendant's First Amended Answer which are affirmative defenses by Defendant Key for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 94 through 131 as denied.

9. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 140 of the second counterclaim of Key's Counterclaims.

THIRD COUNTERCLAIM

(Declaratory Judgment of Unenforceability of U. S. Patent No. 5,265,007)

10. In paragraph 141 of Defendants' Counterclaim, Key has incorporated Paragraphs 94 through 131 of Defendant's First Amended Answer which are affirmative defenses by Defendant Key for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 94 through 131 as denied.

11. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 142 of the third counterclaim of Key's First Amended Counterclaims.

FOURTH COUNTERCLAIM

(Declaratory Judgment of Noninfringement of U. S. Patent No. 5,717,868)

12. In paragraph 143 of Defendants' First Amended Counterclaim, Key has incorporated Paragraphs 94 through 131 of Defendant's First Amended Answer which are affirmative defenses by Defendant Key for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 94 through 131 as denied.

13. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 144 of the fourth counterclaim of Key's First Amended Counterclaims.

FIFTH COUNTERCLAIM

(Declaratory Judgment of Invalidity of U. S. Patent No. 5,717,868)

14. In paragraph 145 of Defendants' First Amended Counterclaim, Key has incorporated Paragraphs 94 through 131 of Defendant's First Amended Answer which are affirmative defenses by Defendant Key for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 94 through 131 as denied.

15. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 146 of the fifth counterclaim of Key's First Amended Counterclaims.

SIXTH COUNTERCLAIM

(Declaratory Judgment of Unenforceability of U. S. Patent No. 5,717,868)

16. In paragraph 147 of Defendants' Counterclaim, Key has incorporated Paragraphs 94 through 131 of Defendant's First Amended Answer which are affirmative defenses by Defendant Key for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 94 through 131 as denied.

17. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 148 of the sixth counterclaim of Key's First Amended Counterclaims.

18. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 149 of the sixth counterclaim of Key's First Amended Counterclaims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Counter-Defendant prays for judgment against Defendants/Counter-Plaintiffs as follows:

A. For judgment dismissing the counterclaims with prejudice;

B. For a declaration that this is an exceptional case, and an award to Plaintiff/Counter-Defendant of its costs and attorneys' fees incurred herein;

C. An award of the costs of this action; and

D. That Plaintiff/Counter-Defendant be awarded such other and further relief as the Court may deem just and proper, including all relief requested in Plaintiff's Complaint.

Respectfully submitted,

____________/S/______________________

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ATTORNEYS FOR PLAINTIFF/COUNTER-DEFENDANT,DATATREASURY CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record, via CM/ECF, on the 17th day of April, 2007.

___________/S/______________________
Edward Lewis von Hohn